

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re: ) Chapter 7  
)  
**PATRICK AND KIM DEL MONICO,** ) Case No. 04 B 38235  
)  
Debtors. ) Honorable A. Benjamin Goldgar,  
)  
) Hearing Date: April 7, 2010, 9:30 a.m.  
)

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that on April 12, 2010 at 9:30 a.m. or as soon thereafter as counsel may be heard, we shall appear before the Honorable A. Benjamin Goldgar in courtroom 613 at 219 South Dearborn Street, Chicago, Illinois, or before any other judge who may be sitting in his place and stead, and present the attached **First and Final Fee Application of Gould & Pakter Associates LLC for Compensation for Services Rendered for the Period from March 11, 2005 through October 6, 2008**, at which time and place you may appear if you so desire.

Dated: March 18, 2010

RONALD R. PETERSON not individually  
but as chapter 7 case trustee for the  
bankruptcy estate of Patrick and Kim Del  
Monico

By: /s/Ronald R. Peterson  
Ronald R. Peterson

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**CERTIFICATE OF SERVICE**

I, Ronald R. Peterson, certify that I caused a copy of the foregoing **Notice of Motion and First and final Application of Gould & Pakter Associates LLC for Compensation for Services Rendered for the Period from March 11, 2005 through October 6, 2008** to be served upon the parties on the attached Service List by US Mail, properly addressed and postage prepaid on March 18, 2010.

*/s/ Ronald R. Peterson*

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**SERVICE LIST**

*In re Patrick Del Monico and Kim Del Monico*  
Case No. 04 B 38235

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Wheeling, IL 60090

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Insolvency Territory 7  
Internal Revenue Service  
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Bank of America  
P.O. Box 15019  
Wilmington, DE 19850

Bank One  
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Wilmington, DE 19850

Medina Landscaping  
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Wauconda, IL 60084

Capital One Services-Virginia  
P.O. Box 85015  
Richmond, VA 23285

Okeh Electric  
825 West University Drive  
Arlington Heights, IL 60004

Citicard/Citibank  
P.O. Box 6500  
Sioux Falls, SD 57111

Providian Visa Platinum Card  
Bankruptcy Department  
P.O. Box 10467  
Greenville, SC 29601

Consumers Credit Union  
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Gurnee, IL 60031

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Collegiate Funding Services  
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Arlington Heights, IL 60005

GLM Financial  
20856 North Rand Road  
Barrington, IL 60010

Glen Ellyn Storage  
465 East Fullerton  
Carol Stream, IL 60188

Household Finance  
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Streamwood, IL 60107

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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Chapter 7
	)	
<b>PATRICK AND KIM DEL MONICO,</b>	)	Case No. 04 B 38235
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Debtors.	)	Honorable A. Benjamin Goldgar,
	)	
	)	Hearing Date: April 7, 2010, 9:30 a.m.

**FIRST AND FINAL APPLICATION OF GOULD & PAKTER ASSOCIATES LLC  
FOR COMPENSATION FOR SERVICES RENDERED FOR THE  
PERIOD FROM MARCH 11, 2005 THROUGH OCTOBER 6, 2008**

**Introduction**

1. On October 14, 2004 (the “Petition Date”), Patrick J. Del Monico and Kim H. Del Monico (“Del Monico” or the “Debtor”) filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.

2. On March 11, 2005, the Trustee engaged Michael D. Pakter (“Pakter”) and Gould & Pakter Associates, LLC (“G&P”) as his accountant, with compensation subject to further Order of this Court. On April 7, 2005, this Court entered an order authorizing employment of Pakter and G&P as the Trustee’s accountants.<sup>1</sup>

3. By this Motion, Pakter and G&P requests compensation in the amount of \$12,662.50 for professional services rendered to the Trustee during the period March 11, 2005 through October 6, 2008 and waives reimbursement for out of pocket expenses incurred during the same period. An itemization of the services rendered during the relevant period is attached to this Motion as Exhibit 1.

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<sup>1</sup> The order authorizing the Trustee's retention of Pakter and G&P was entered on April 7, 2005. To the extent that this application seeks approval of fees incurred prior to that date, the Trustee requests that the Court treat the order as authorizing retention *nunc pro tunc* to the beginning of the Compensation Period.

4. Pakter and G&P have received no prior allowances of interim compensation or expenses. Pakter and G&P received no advance payment pre-petition retainer from the Debtor, which would have been credited against any interim allowance made by this Court pursuant to this Motion.

### **Background**

5. The Trustee selected Pakter and G&P for the reason that they are experienced in providing accounting and financial consulting services to bankruptcy trustees and estates.

6. The nature and extent of the services that G&P or F&H shall render at the request of the Trustee are generally as follows:

- a. Conduct a forensic accounting and fraud investigation regarding the financial affairs of the Debtors and the relationship between the Debtors and International Traffic Consultants, Inc. ("ITC");
- b. Investigate and assist the Trustee in recovering any accounts receivable or other property of the estate, and provide expert testimony related thereto as appropriate;
- c. Investigate and assist the Trustee in avoiding and recovering any avoidable transfers, and provide expert testimony related thereto as appropriate;
- d. Prepare financial statements and other reports;
- e. Prepare and file tax returns; and
- f. Assist with any other accounting tasks required by the estate.

### **Interim Compensation and Expenses Requested**

7. G&P and/or its Managing Members:

- Provide commercial litigation support, forensic accounting, financial analysis of disputes and financial/fraud investigations.
- Calculate lost profits and other financial/economic damages, trace undisclosed/hidden assets and sources of funds used to purchase identified assets and reconstruct falsified/incomplete financial information.

- Value closely held businesses for shareholder dissent/oppression litigation, family law services, estate and gift tax planning/compliance and buy/sell agreements, business and bankruptcy litigation.
- Are members of the Business Valuation and Forensic & Litigation Services Section of the American Institute of Certified Public Accountants.
- Are affiliated with Friedman & Huey Associates LLP, a full service CPA Firm providing tax, accounting and business consulting, compliance, planning and advice throughout the United States.

**10.** The following is biographical information pertaining to those consultants who have been primarily involved in the representation of the Debtor. Other consultants at G&P have also participated to a lesser extent in this Chapter 11 case. Each such consultant has significant experience and expertise in bankruptcy and litigation matters.

**11.** MICHAEL D. PAKTER is a Managing Member of the public accounting firm of Gould & Pakter Associates, LLC and has been practicing accounting in the State of Illinois as a Certified Public Accountant since 1988. His professional practice is focused on financial analysis, forensic accounting, financial investigations and fraud audits. He has significant experience in calculating lost profits, business interruption losses, analysis of cash flow projections, other financial and economic damage analyses and reconstruction of falsified or incomplete financial information. He has been engaged by Plaintiffs, Defendants, Trustees, Creditors' Committees, Debtors and Claims Adjustors.

He has spoken and presented on the topics of fraud, forensic accounting and other topics to various private law firms, the Chicago Bar Association and other business and professional organizations. He has served as the President of the Chicago Chapter of the Association of Certified Fraud Examiners, President of the North Shore Chapter of the Illinois CPA Society ("ICPAS") and Treasurer of the Chicago International Dispute Resolution Association. He is a member of the following organizations: ICPAS Business Valuation/Forensics & Litigation



Services Special Interest Group, American Institute of Certified Public Accountants (“AICPA”) Business Valuation and Forensic & Litigation Services Section, American College of Forensic Examiners, Association of Insolvency and Restructuring Advisors and the Turnaround Management Association. Mr. Pakter is a Certified Public Accountant licensed to practice in the State of Illinois. He is a Chartered Accountant, Certified Fraud Examiner and a Certified Insolvency and Restructuring Advisor. He has recently completed his Certification in Distressed Business Valuation.

**12.** LEE A. GOULD is a Managing Member of the public accounting firm of Gould & Pakter Associates, LLC and has been practicing accounting in the State of Illinois since 1980. His professional practice is focused on performing valuations of closely held businesses, lost profits and other financial damages determination and forensic accounting investigations. He performs business valuations for estate and gift tax purposes, family law matters, shareholder dissent and oppression litigation and buy/sell agreements. Analyzing cash flow projections is an integral part of such work. He has provided litigation consulting services in a variety of industries including manufacturing, distribution, retail, construction, financial services, professional service corporations and real estate. He performs forensic accounting analyses to assist in locating unreported or hidden assets, determining the source of funds used to acquire assets, determining the reasonableness of contract and/or project related costs and investigating claims of misappropriation. He has been engaged by Plaintiffs, Defendants, Trustees, Creditors’ Committees, Debtors and Claims Adjustors.

Mr. Gould also designs and presents continuing education programs for the AICPA, ICPAS and the ICPAS Business Valuation/Forensics & Litigation Services Special Interest Group, the Chicago Bar Association, the American Bar Association and law firms. For the

ICPAS, he is serving as the Vice Chairperson and is a Member of Business Valuation Special Interest Group and has previously served as a Member of Board of Directors (2004 through 2006), Member and Prior Chair of the Consulting Executive Committee, Member of 2001 through 2005 Business Valuation Conference Task Force and a Member of 2005 Family Law Conference Task Force. He is a Certified Fraud Examiner, a member of the AICPA Business Valuation and Forensic & Litigation Services Section, the American College of Forensic Examiners Institute, the American Bar Association, the Illinois State Bar Association, the Chicago Bar Association and a Candidate Member of the American Society of Appraisers. Mr. Gould is a Certified Public Accountant licensed to practice in the State of Illinois.

**13.** JAMES R. STITH is a Certified Public Accountant and a Certified Fraud Examiner. He has been practicing accounting in the State of Illinois since 1997. His educational background includes a Bachelor of Arts degree from Grinnell College, a Master's Degree in Hospital Administration from Duke University and a Certificate of Accounting from Northwestern University. He is currently affiliated with the Illinois CPA Society, American Institute of Certified Public Accountants and the Association of Certified Fraud Examiners. Since becoming a CPA in 2007, he has over 600 hours of continuing professional education in accounting, auditing, international accounting, internal control, tax, fraud investigation and valuation analysis. He provides assistance with business valuations, business consulting services and assistance with testimony preparation for trial lawyers and the clients they represent. He provides consulting to trial lawyers to assist them with financial analysis and reconstruction of falsified or incomplete financial information.

**14.** TODD D. RATHBUN is a Financial Litigation Consultant at the public accounting firm of Gould & Pakter Associates, LLC and has been with the firm since 2005. His

educational background includes a Bachelor's Degree in Accounting from Loyola University in Chicago, Illinois and he is an MSA candidate at Loyola University in Chicago, with a focus on regulation and standard setting. He is scheduled to begin the process of sitting for the CPA exam in July 2007. He provides financial analysis, forensic accounting, financial investigations and fraud audits. He provides assistance with business valuations, business consulting services and assistance with testimony preparation for trial lawyers and the clients they represent. He assists with business valuations for estate and gift tax purposes, shareholder dissent and oppression matters, litigation and in conjunction with the preparation of buy/sell agreements. He provides consulting to trial lawyers to assist them with lost profits and business interruption damages measurement, financial analysis, cash flow projections and reconstruction of falsified or incomplete financial information. He is a Student Member of the Association of Certified Fraud Examiners.

**15.** The hourly rates usually charged by G&P in matters of this nature are as follows:

Managing Members	\$250 - \$360
Managers and Supervisors	\$150 - \$250
Staff Consultants	\$90 - \$150
Paraprofessionals	\$60 - \$90

**16.** The following chart depicts the total hours that each consultant at G&P expended in representing the Debtor from April 1, 2005 through August 8, 2008:

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
M. Pakter	38.80	\$250.00	\$9,700.00
L. Gould	0.40	\$250.00	\$100.00
T. Rathbun	16.40	\$125.00	\$2,050.00
J. Stith	6.50	\$125.00	\$812.50
Total	<u>69.20</u>		<u>\$12,662.50</u>

17. The amount being sought as compensation under this Fee Application for Pakter and G&P for professional services provided to the Trustee is limited to \$12,662.50. Pakter and G&P waive all out of pocket expenses and expenses for preparation of this fee application.

**Consulting Services Rendered to the Trustee**

18. Pakter and G&P performed the following phases of work:

- A. Case administration, engagement planning, conflict check, receive and download documents and prepare fee application.
- B. Document review, to gain an understanding of facts and circumstances specific to case and for planning and analytical purposes.
- C. Meetings with Trustee and Trustee's legal counsel to plan and determine scope of work and communicate findings.
- D. Prepare Verified Statement.
- E. Prepare Pat Del Monico sources and uses of funds statement based on financial analysis of cash receipts and distributions contained in selected bank statements.
- F. Analysis of potential preferences and avoidance actions, pre and post petition transfers and avoidable disbursements.

19. Information used in the financial analysis performed for the Trustee was obtained from documents provided to Pakter and G&P through October 6, 2008, all of which were of a type reasonably relied on by experts in the field of financial analysis.

20. Pakter and G&P performed their work using financial analysis and forensic accounting techniques routinely used by CPAs and other professionals and were guided by the general standards contained in the AICPA's *Code of Professional Conduct and Bylaws*. These standards include, among other things, exercising professional competence and due professional care, adequate planning and supervision and obtaining sufficient relevant data.

**Summary and Conclusions**

21. Other than as provided in Section 504(b) of the Bankruptcy Code, G&P has not shared, nor agreed to share, any compensation received as a result of this case with any person, firm or entity. The sole and exclusive source of compensation shall be funds of the Debtor.

22. G&P asserts that the compensation requested in this Motion is reasonable compensation for the actual and necessary consulting services rendered based upon the time nature, extent and value of such professional services. G&P further asserts that the cost of consulting services rendered for and on behalf of the Trustee is comparable to the cost of similar services in matters other than under the U.S. Bankruptcy Code.

23. G&P asserts that the compensation requested is fair, reasonable and warranted under the circumstances.



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**Michael D. Pakter,**  
**CA, CPA, CFE, CIRA, CDBV, CFF**  
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